

## R430-90-9: FACILITY

This section provides rules and information that apply to the space requirements, structure, layout, and maintenance of the child care facility, both inside and outside.

Studies have shown that the quality of a child care facility's environment is related to children's cognitive, social, and emotional development. A quality environment involves elements such as the indoor space available to the children, well-defined activity settings, available privacy, and the quality of the outdoor play space. *CFOC 3<sup>rd</sup> ed. Standard 5.1.2.1. p. 203.*

Proper maintenance is a key factor in ensuring a safe environment for children. Regular inspections are critical to prevent breakdowns of equipment and the accumulation of hazards in the environment, and to ensure that needed repairs are made quickly. Regular maintenance checks and appropriate corrective actions can reduce the risk of potential injury. *CFOC 3<sup>rd</sup> ed. Standard 5.3.1.1. pp. 237-238; Standard 5.7.0.2. pp. 259-260; Standard 6.2.5.1 p. 277.*

- (1) **There shall be at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.**

### Rationale / Explanation

There has been growing research into how the physical design of a child care setting affects a child's development. The American Academy of Pediatrics (AAP) and the American Public Health Association (APHA) recommend that a child care facility has at least forty-two to fifty square feet of usable floor space per child. *CFOC 3<sup>rd</sup> ed. Standard 5.1.2.1. p. 203.*

A minimum square footage of indoor space per child is required because:

- Crowding has been shown to be associated with an increased risk of sickness.
- Children's behavior tends to be more constructive when they have sufficient space to move and play.
- Having sufficient space reduces the risk of injury from children involved in simultaneous activities. *CFOC 3<sup>rd</sup> ed. Standard 5.1.2.1. p. 203.*

### Compliance Guidelines

- Square footage is used as a factor in determining the maximum capacity of the facility.
- After the facility is measured at the Pre-License Inspection, generally rooms are not remeasured at subsequent inspections except when:
  - A room or area in the facility has been remodeled.
  - A provider requests a change to their capacity.
  - A room or area appears overcrowded with children or with items unrelated to child care.
- The provider may temporarily have children in an area with less than 35 square feet of space per child while in a group activity that requires less movement, such as eating, napping, listening to a story, watching a puppet show, working on an art project, or doing homework.

### Moderate Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation Warning

- (2) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:
- (a) by children,
  - (b) for the care of children, or
  - (c) to store classroom materials.
- (3) The following areas are not included when measuring indoor space for children's use:
- (a) bathrooms,
  - (b) closets,
  - (c) hallways, and
  - (d) entryways.
- (4) The maximum allowed capacity for a child care facility may be limited by local ordinances.

#### **Rationale / Explanation**

Some city ordinances limit the capacity of child care facilities. CCL will not issue a license with a greater capacity than allowed by the city where the facility is located.

When a maximum capacity is stated on a city's business license, or on a fire or kitchen inspection report, it may result in a reduced capacity when the child care license is renewed.

- (5) The number of children in care at any given time shall not exceed the capacity identified on the license.

#### **Rationale / Explanation**

Research reveals that there are negative effects on children when a child care facility is overcapacity. These may include increased noise level, overcrowding, more injuries, and lower quality of caregiver interactions with the children. *Evans, G.W. (2006). Child development and the physical environment. Annual Review of Psychology, 57, 423-451.*

#### **Compliance Guidelines**

- "Children in care" refers to the children who are present at the facility, being transported, and at any offsite activity.
- A physical head count of the children who are present combined with the provider's enrollment and attendance policies, and the sign-in and sign-out system may help ensure compliance with this rule.
- The provider may be over capacity for short periods of time during special events, such as parties where all enrolled children are invited, as long as supervision and ratios are maintained.

#### **High Risk Rule Violation**

##### **Corrective Action for 1<sup>st</sup> Instance**

Citation Warning

- (6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.

### Rationale / Explanation

Lead is highly toxic. Exposure to it can be dangerous, especially for young children. Lead exposure can affect a child's ability to learn, succeed in school, and function later in life. It can cause serious health problems including permanent brain damage. Damage caused by overexposure to lead can be irreversible. *CFOC 3<sup>rd</sup> ed. Standard 5.2.9.13. pp. 235-236.*

Lead-based paint and lead-contaminated dust are the most hazardous sources of lead poisoning in children and may be found in:

- House paints and paint used on outdoor play equipment made before 1978
- Some imported vinyl mini-blinds made before 1997
- Some imported toys

### Compliance Guidelines

- Providers must regularly inspect inside and outside walls and play surfaces that are accessible to children for damaged (peeling, flaking, or chalking) paint.
- Any area with damaged paint should be tested for lead. If there are four areas with damaged paint, then there must be four tests for lead.
- If lead-based paint is found and the building or structure was built before 1978, the local health department or the Utah Department of Environmental Quality (DEQ) should be contacted for how to remove or repair the lead-based paint.
- According to DEQ regulations, if there is an area with 6 square feet or more of damaged paint indoors or an area with 20 square feet or more of damaged paint outdoors, then correction must be done by a certified individual.
- There must be documentation that paint was tested and it contains no lead, or that paint containing lead was repaired according to DEQ or local health department instructions.
- More information can be found at:  
<https://www.epa.gov/sites/production/files/documents/steps.pdf>.

### High Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation and CMP Warning when:

- A building or play structure constructed before 1978 has untested failing paint in an area accessible to children.
- Any area has tested paint that contains lead and it has not been appropriately remediated.

### Moderate Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation Warning when:

- A building or play structure constructed before 1978 has untested failing paint in an area inaccessible to children.

- (7) **Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.**

### Rationale / Explanation

Mechanical ventilation is a way to move air in and out of a room. When windows cannot be kept open, air should be circulated by a heating, ventilation, air conditioning, and cooling system as well as by using fans.

Air quality significantly impacts people's health. Lack of adequate air filtration or ventilation results in contaminated air that is sometimes more polluted than the outdoor air. Children who spend long hours inside breathing contaminated air are more likely to develop respiratory problems, allergies, and asthma. Air circulation is essential to clear infectious disease agents, odors, and toxic substances in the air. *CFOC 3<sup>rd</sup> ed. Standard 5.2.1.1. p. 211.*

The American Academy of Pediatrics recommends that as much fresh air as possible be circulated into rooms used by children. Windows with screens (to prevent the entry of insects) should be opened whenever weather and the outdoor air quality permit, and windows in areas used by children under age 5 years should not open more than 4 inches, or should be protected with guards that prevent children from exiting or falling out. *CFOC 3<sup>rd</sup> ed. Standard 5.2.1.1. p. 211; Standard 5.1.3.2. pp. 204-205.*

### Compliance Guidelines

- Areas used by children must be free of signs of inadequate ventilation such as mold growing in corners, a damp or musty smell, or a room with a temperature that varies greatly from the temperature of other rooms in the building.

### Moderate Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation Warning when:

- A room or area used by the children does not have either mechanical ventilation or a window to open.
- There are signs of inadequate ventilation in a room used by children.
- The ventilation is provided by an open, unscreened window that is accessible to children, and the room or area is above the facility's ground-floor level.

### Low Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Warning when:

- The ventilation is provided by an open, unscreened window that is accessible to children, and the room or area is on the facility's ground floor or basement level.

- (8) All rooms and areas that are used for child care shall have adequate light intensity for the safety of the children and the type of activity being conducted.**

### Rationale / Explanation

In *Caring for Our Children* it is advised that natural lighting is provided in rooms where children work and play for more than two hours at a time. It is also recommended that all areas of the facility have glare-free natural and/or artificial lighting that provides adequate illumination and comfort for program activities. *CFOC 3<sup>rd</sup> ed. Standard 5.2.2.1. p. 217.*

Appropriate illumination facilitates comfort, cleanliness, and most importantly the health and safety of children and adults. Inadequate artificial lighting has been linked to eyestrain, headache, and nonspecific symptoms of illness. *CFOC 3<sup>rd</sup> ed. Standard 5.2.2.1. p. 217.*

Lighting levels may be reduced during nap times to promote resting. However, rooms should be lighted enough to allow caregivers to see children's facial features for signs of distress or sickness. *CFOC 3<sup>rd</sup> ed. Standard 5.2.2.1. p. 217.*

### Compliance Guidelines

- It is a rule violation if an area being used by children is so dark that it is unsafe to go in or out due to inadequate lighting.

### Moderate Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation Warning when:

- There is inadequate lighting in a diapering or food preparation area, or if it is completely dark in a sleeping room.

### Low Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Warning when:

- There is inadequate lighting in any other area used by the children.

## (9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

### Rationale / Explanation

The American Academy of Pediatrics and the American Public Health Association recommend that a draft-free indoor temperature between 68 and 75 degrees Fahrenheit be maintained during the winter months. A temperature between 74 and 82 degrees Fahrenheit should be maintained during the summer months. *CFOC 3<sup>rd</sup> ed. Standard 5.2.1.2. p. 212.*

For comfort and health, all rooms that children use should be heated and cooled to maintain required temperatures. *CFOC 3<sup>rd</sup> ed. Standard 5.2.1.2. p. 212.*

According to the National Institutes of Health, there may be an association between sleeping room temperatures and increased risk of SIDS. It is recommended that sleeping rooms be kept at a temperature comfortable for a lightly-clothed adult, and infants should not be overly bundled or should not feel hot to the touch when sleeping.

### Compliance Guidelines

- A thermometer may be used to check the air temperature in each infant and toddler room or area.
- The air temperature may be measured at the height at which the infants and toddlers sleep.
- In rooms other than the infant/toddler rooms, the air temperature may be measured when an area seems to be too hot or too cold.
- In rooms used only for preschool and school-age children, the air temperature may be measured at table height when a room seems to be too hot or cold.

### Moderate Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation Warning when:

- The temperature is out of range in a room with infants or toddlers.

### Low Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Warning when:

- The temperature is out of range in any other rooms.

- (10) There shall be a working telephone in the home, in each vehicle while transporting children, and during offsite activities.**

**Rationale / Explanation**

Wherever children are in care, there should always be a telephone available for communication between the child care staff and parents, and for emergency use. *CFOC 3<sup>rd</sup> ed. Standard 5.3.1.12. p. 243.*

**Compliance Guidelines**

- A cell phone meets the requirements of this rule as long as there is a phone in the home, each vehicle, and at offsite activities whenever children are present.
- A long range two-way communication device also meets the requirements of this rule.

**Moderate Risk Rule Violation**

**Corrective Action for 1<sup>st</sup> Instance**

Citation Warning

- (11) There shall be a working toilet and a working handwashing sink accessible to each nondiapered child in care.**

**Rationale / Explanation**

Children use the bathroom often, and cannot wait long when they have to use the toilet. Sinks should be nearby to facilitate handwashing. *CFOC 3<sup>rd</sup> ed. Standard 5.4.1.6. p. 246.*

Transmission of many communicable diseases can be prevented through handwashing. To facilitate routine handwashing at the needed times, sinks must be close at hand and permit caregivers to provide continuous supervision while children wash their hands. *CFOC 3<sup>rd</sup> ed. Standard 5.4.1.6. p. 246.*

**Compliance Guidelines**

- During regular operation hours, the required toilet and sink must be in working condition.
- It is a violation of rule 90-9(21) if there is only one toilet at the facility and it is not in working condition. In this case, the repair must be made immediately (within one hour) in order to provide child care services.
- The following are not acceptable toilets or sinks:
  - Indoor and outdoor portable toilets, such as chemical toilets, composting toilets, and bucket toilets
  - A portable sink with no water in it

- (12) A bathroom that provides privacy shall be available for use by school-age children.**

**Rationale / Explanation**

Children should be allowed the opportunity to practice modesty when independent toileting behavior is well established. *CFOC 3<sup>rd</sup> ed. Standard 5.4.1.2. p.245.*

**Compliance Guidelines**

- A bathroom that provides privacy has a full-length door or curtain that closes, and only one child at a time uses the bathroom.

**Moderate Risk Rule Violation**  
**Corrective Action for 1<sup>st</sup> Instance**  
Citation Warning

**(13) There shall be an outdoor area that is safely accessible to children.**

**Rationale / Explanation**

A safely accessible outdoor area is important to prevent injury to children or to keep a child from escaping on the way to the area. An outdoor area is considered safely accessible when the way to reach it is free of potential hazards. Children should not be able to access streets, parking lots, ditches, etc. when going outside to play. *CFOC 3<sup>rd</sup> ed. Standard 6.1.0.1. p. 265.*

**Compliance Guidelines**

- In order to be licensed, there must be an outdoor area on the provider's premises that can be safely reached and used by the children. Facilities that do not have outdoor areas on site cannot ensure that children in their care are playing on equipment or in a space that is safe. Because open air is vital for children, indoor space cannot replace outdoor space.
- The route from the house to the outdoor area must be safe. For example, an outdoor area is not safely accessible if children must walk across an unsafe deck (such as one with broken boards or holes in it) or cross a driveway where cars or other motor vehicles come and go.
- The following examples of outdoor areas that are safely accessible include:
  - An outdoor area that is directly adjacent to the house, so that children exit the house straight into the play area.
  - A large, open-air deck that children access directly from the house as long as the deck has the required space per child and meets other licensing requirements.
  - An outdoor area on the premises that is reached by way of a fenced walkway.
  - When the building and entire outdoor area are surrounded by fencing, as long as the area inside the fence does not have motor vehicles or other hazards.
  - A common area in a multi-home complex as long as a caregiver is always with the children, the area can be safely reached, and portable fencing is set up around the area each time the children are outside.

**Moderate Risk Rule Violation**  
**Corrective Action for 1<sup>st</sup> Instance**  
Citation Warning

**(14) The outdoor area shall have at least 40 square feet of space for each child using the area at one time.**

**Rationale / Explanation**

Children benefit from being outside as much as possible and it is important that there is enough space to allow children safe freedom of movement during active outdoor play. Providing more square feet per child may correspond to a decrease in the number of injuries associated with gross motor play. *CFOC 3<sup>rd</sup> ed. Standard 6.1.0.1. p. 265.*

**Compliance Guidelines**

- The outdoor space that will be used by the children ages 0-12 years (including the provider's and employees' own children who will attend the program):
  - Must meet the square footage requirements of this rule.
  - Is a factor in determining the maximum capacity of the facility.

- After the outdoor area is measured at the Pre-License Inspection, generally the space is not remeasured on subsequent inspections except when:
  - The facility's outdoor area has been renovated or changed.
  - A provider requests a change to their capacity.
  - The outdoor play area appears overcrowded during an inspection.
- A facility may have more than one outdoor area, as long as each area is safely accessible, fenced as required, meets the square footage requirements for the number of children using the area, and is in compliance with other licensing rules.

### Moderate Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

##### Citation Warning

- (15) The outdoor area shall be enclosed within a fence, wall, or solid natural barrier that is at least 4 feet high when the facility is on a street or within half a mile of a street that:**
- (a) has a speed of 25 miles per hour or higher, or**
  - (b) has more than 2 lanes of traffic.**

### Rationale / Explanation

Enclosing the outdoor area helps to ensure proper supervision and protection, prevention of injuries, and control of the outdoor area. A fence or other barrier prevents children from leaving the outdoor area and accessing streets and other hazards. It also serves to keep unwanted people and animals out of the outdoor area. *CFOC 3<sup>rd</sup> ed. Standard 6.1.0.8. p. 268.*

### Compliance Guidelines

- The entire perimeter of the fence must be at least 4 feet (48 inches) high.
- The fence must be measured on each side at its lowest point, from the side the children play on, and includes measuring a gate.
- If a fence or wall was previously approved by CCL, then the barrier's height is considered in compliance as long as:
  - The barrier has not been replaced, repaired, or altered; and
  - All areas of the barrier measure within 5 inches of the required 4-foot height. This 5-inch allowance only applies to a previously-approved barrier that has not changed since the approval; it does not apply to barriers formed by bushes or shrubs, etc. If the fence or wall was replaced, repaired, adjusted, or it has changed since the last CCL inspection, it must meet the 4-foot height requirement.
- It is not a rule violation if a fence is lower than 48 inches in height due to temporary weather conditions, such as snow on the ground at the base of the fence.
- Bushes will be considered a natural barrier when there are no gaps 5 by 5 inches or greater.
- When a ramp (leading to the outdoor area) is separated from the area with a 4-foot-high gate that is closed, the height of a fence on the ramp does not need to be assessed. If there is no gate, the gate is open, or is less than 4 feet high, then the fence on the perimeter of the ramp (that encloses the ramp and outdoor area) must be at least 4 feet high. The interior fencing on the ramp does not need to be assessed.
- Interior fences within the 4-foot perimeter fence do not need to be 48 inches high, unless otherwise required in rule.

- Any temporary fencing that is used to comply with this rule must:
  - Always be set up when children are in the outdoor area.
  - Meet the fencing height requirements as described above.
  - Not have gaps. Refer to 90-9(17).
  - Enclose the required amount of space. Refer to 90-9(14).

### High Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation and CMP Warning when:

- There is no fence or barrier enclosing the outdoor area, or an area of the fence or barrier is less than 36 inches high.

### Moderate Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation Warning when:

- An area of the fence or barrier is less than 48 inches high (or is less than 43 inches high as previously described).

- (16) The following hazards shall be separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least 4 feet high:**
- (a) barbed wire that is within 30 feet of the children's play area;**
  - (b) livestock on or within 50 yards of the property line;**
  - (c) dangerous machinery, such as farm equipment, on or within 50 yards of the property line;**
  - (d) a drop-off of more than 5 feet on or within 50 yards of the property line; or**
  - (e) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.**

### Rationale / Explanation

Enclosing the outdoor area helps to ensure proper supervision and protection, prevention of injuries, and control of the outdoor area. A fence or other barrier prevents children from leaving the outdoor area and accessing streets and other hazards. It also serves to keep unwanted people and animals out of the outdoor area. *CFOC 3<sup>rd</sup> ed. Standard 6.1.0.8. p. 268.*

### Compliance Guidelines

- A drop-off of 5 feet or more is assessed by measuring from the top of the drop-off straight down to where an object or person would fall.
- Dangerous machinery includes active rail roads.
- Any swimming pool, pond, ditch, lake, river, stream, creek, or animal watering with water that pools 2 inches or deeper will be considered a hazard.

### High Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation and CMP Warning when:

- There is no fence or barrier separating the outdoor area from a hazard as required, or an area of the fence or barrier is less than 36 inches high.

### Moderate Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation Warning when:

- An area of the fence or barrier is less than 47 inches high.

**(17) There shall be no gap 5 by 5 inches or greater in or under the fence.**

**Rationale / Explanation**

An effective fence prevents a child from getting over, under, or through it, and keeps children from leaving the outdoor play area without adult supervision. Any openings or gaps in the fence should be small (no larger than three and a half inches) to prevent entrapment and discourage climbing. *CFOC 3<sup>rd</sup> ed. Standard 6.1.0.8. p. 268.*

**Compliance Guidelines**

- The entire perimeter of all required fences must be checked for gaps, including fences enclosing the outdoor area and any interior fences required to separate children from hazards even if previously approved.
- The size of any gap in or under the fence should be measured without pushing on the fence. (Licensors will use a gap-measure tool.)
- Depending on the purpose of the fence, it is a violation of rule 90-9(15) or 90-9(16) for not having a fence if any gap is 3 feet or greater in size.

**High Risk Rule Violation**

**Corrective Action for 1<sup>st</sup> Instance**

Citation and CMP Warning when:

- Any required fence or barrier has a 5 by 5 inch gap or greater that is lower than 36 inches.

**Moderate Risk Rule Violation**

**Corrective Action for 1<sup>st</sup> Instance**

Citation Warning when:

- Any required fence or barrier has a 5 by 5 inch gap or greater that is 36 inches or higher.

**(18) Whenever there are children in the outdoor area, there shall be shade available to protect them from excessive sun and heat.**

**Rationale / Explanation**

Exposure to sun is needed, but children must be protected from excessive exposure. Individuals who suffer severe childhood sunburns are at increased risk for skin cancer. It is important that shade be available to prevent both sunburn and heat exhaustion. Practicing sun-safe behavior during childhood is the first step in reducing the chances of getting skin cancer later in life. *CFOC 3<sup>rd</sup> ed. Standard 6.1.0.7. p. 267.*

Children do not adapt to extremes in temperature as effectively as adults. Children produce more metabolic heat per mass unit than adults when walking or running. They also have a lower sweating capacity and cannot dissipate heat by evaporation as quickly. *CFOC 3<sup>rd</sup> ed. Standard 3.1.3.2. p. 93.*

**Compliance Guidelines**

- There must be a provision for shade whenever the children are in the outdoor area, and it must be provided year-round.
- Shade can come from a tree, awning, patio roof, or other structure such as the side of the building. A canopy or umbrella may be used as long as it can be set up and stand on its own.
- There is no rule about the time of day that children play outside as long as shade is available to the children.

### Moderate Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation Warning when:

- Shade is not available when children are in the outdoor area.

### Low Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Warning when:

- Shade is not available when children are in the outdoor area, but it is cold weather.

- (19) If there is a swimming pool on the premises that is not emptied after each use:
- (a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and
  - (b) when not in use, the pool shall be enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or enclosed with a locked, properly working safety cover that meets ASTM Specification F1346-91.

### Rationale / Explanation

There may be state and local laws regulating the operation of a swimming pool. For example, electrical equipment that is at and around the pool should be installed and inspected as required by the regulatory electrical inspector. Because young children can lose or gain body heat more easily than adults, water temperature for swimming and wading should be warm enough to prevent excess loss of body heat and cool enough to prevent overheating. The pool should be cleaned and the water quality should be maintained to control bacteria and the spread of disease through ingestion of pool water. *CFOC 3<sup>rd</sup> ed. Standard 6.3.3.3; Standard 6.3.3.4; Standard 6.3.4.1. pp. 281-283.*

In some instances, children have drowned as a result of their body or hair being entrapped or seriously injured by sitting on drain grates. When drain covers are broken or missing, the body can be entrapped by the resulting suction. All covers for the main drain and other suction ports of swimming and wading pools should be listed by a nationally recognized testing laboratory. *CFOC 3<sup>rd</sup> ed. Standard 6.3.1.6. p. 280.*

Drowning accounts for the highest rate of unintentional injury-related death in children younger than 5 years old. Most children drown within a few feet of safety and in the presence of a supervising adult. It is essential that any pool not emptied after use be inaccessible to children. *CFOC 3<sup>rd</sup> ed. Standards 6.3.1.1. - 6.3.4.1. pp. 278-283.*

### Compliance Guidelines

- All locks or latches on the fence or safety cover must be properly locked.
  - A pool fence must be locked with a key or combination lock.
  - For a pool cover, every latch must be engaged and all sides must be secured.
- When the pool is covered with a safety cover, ASTM documentation must be available for review by CCL.
- If the law or rule from one agency is stricter than another, the provider must follow the stricter of the two regulations.

**High Risk Rule Violation**  
**Corrective Action for 1<sup>st</sup> Instance**  
Citation and CMP Warning

- (20) **A hot tub on the premises with water in it shall be inaccessible to children by being:**
- (a) kept locked with a properly working cover; or**
  - (b) enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the hot tub from any other areas on the premises.**

**Rationale / Explanation**

Any body of water, including hot tubs, presents a drowning risk to young children. Toddlers and infants are particularly susceptible to overheating. Areas should be secured to prevent any access by children. *CFOC 3<sup>rd</sup> ed. Standard 6.3.5.1. p. 283.*

**Compliance Guidelines**

- This rule only applies to tubs with water in them. However, it should be noted that empty tubs with unsafe or unlocked covers can also be dangerous since children can get trapped in them.
- All locks or latches on the fence or safety cover must be properly locked.

**High Risk Rule Violation**  
**Corrective Action for 1<sup>st</sup> Instance**  
Citation and CMP Warning

- (21) **The provider shall maintain buildings and outdoor areas in good repair and safe condition including:**
- (a) ceilings, walls, and floor coverings;**
  - (b) lighting, bathroom, and other fixtures;**
  - (c) draperies, blinds, and other window coverings;**
  - (d) indoor and outdoor play equipment;**
  - (e) furniture, toys, and materials accessible to the children; and**
  - (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.**

**Rationale / Explanation**

The physical structure where children spend each day can present health and safety concerns if the facility is not maintained in good repair and safe condition. Floors that are cracked or porous cannot be kept clean and sanitary, and flooring in disrepair can cause falls and other injuries. Damaged floors, walls, or ceilings can expose underlying hazardous structural elements and materials such as electrical wiring, fiberglass, asbestos, or peeling paint that can be ingested. *CFOC 3<sup>rd</sup> ed. Standard 5.3.1.6. pp. 240-241; Standard 5.7.0.7. p. 261.*

It is recommended that light fixtures contain shielded or shatterproof bulbs throughout a child care facility. This prevents injury to people and contamination of food if a light bulb breaks. Halogen lights burn at a high temperature and are a potential burn or fire hazard. Multi-vapor and mercury lamps can cause serious skin burns and eye inflammation if the bulb is broken. *CFOC 3<sup>rd</sup> ed. Standards 5.2.2.1 - 5.2.2.3. pp. 217-218.*

The maintenance of bathroom fixtures and surfaces impacts the transmission of infectious diseases in bathrooms. *CFOC 3<sup>rd</sup> ed. Standard 3.6.2.2. p.137.*

Window coverings should be in good repair because children could become entangled in torn draperies or broken blinds. Blinds and drapery cords should have tension or tie-down devices to hold the cords tight. Cords without these devices pose a strangulation hazard. Some imported vinyl mini-blinds contain lead and can deteriorate from exposure to sunlight and heat and form lead dust on the surface of the blinds which is toxic. Deteriorating mini-blinds should be replaced. *CFOC 3<sup>rd</sup> ed. Standard 3.4.6.1. p. 129; Standard 5.2.9.13. pp. 235-236.*

Proper maintenance of indoor and outdoor play equipment is a key factor in ensuring a safe play environment for children. Each play area is unique and requires a routine maintenance check developed specifically for that play area. Equipment and furnishings should be closely inspected to determine whether they meet licensing standards. *CFOC 3<sup>rd</sup> ed. Standard 5.3.1.1. pp. 237-238; Standard 5.7.0.2. pp. 259-260.*

Furnishings, toys, and other materials that are not sturdy, safe, or in good repair may cause falls, entrap a child's head or limbs, cut or pinch skin, or cause other injuries. Staff should check on a regular basis to ensure that toys and other materials used by children have not been recalled. A list of recalls can be accessed at: [www.cpsc.gov](http://www.cpsc.gov). *CFOC 3<sup>rd</sup> ed. Standard 5.3.1.1. pp. 237-238.*

All walking surfaces, such as walkways, ramps, and decks, should have a non-slip finish and be free of loose material (e.g. gravel or sand), water, and ice. To prevent injuries, including from falls, walking surfaces should be free of holes and abrupt irregularities in the surface. Entrances and exits should be free of hazards to allow safe and timely exit from the building in case of an emergency. *CFOC 3<sup>rd</sup> ed. Standard 5.1.6.4. p. 210.*

### Compliance Guidelines

- All indoor and outdoor building areas and structures must be in good repair. This includes all indoor and outdoor play equipment and inside and outside entrances, exits, steps, and walkways used by children.
- The provider must ensure that no play equipment or equipment component could fail or otherwise cause injury from inadequate maintenance such as:
  - Missing, bent, broken, or worn out components
  - Loose hardware or missing nuts or bolts
  - Excessive wear on any part of the equipment
  - Rusted or corroded metal
  - Wood that is rough or splintery
- If equipment is in a state of disrepair and is no longer sturdy or safe, it should be made inaccessible to children until it can be fixed or discarded.
- When hooks, such as C hooks, are open to the point that equipment could come out of the gap, the equipment will be considered not to be maintained in good repair.
- During and immediately after a snowstorm, the provider will be allowed a reasonable amount of time to remove snow from outdoor exit areas, stairs, and walkways to prevent a buildup of snow and ice.
  - In case of emergencies, all walkways, exits, and stairways must be free of ice and snow even if the children will not be going outside.
  - Walkways must be cleared to a width of at least 3 feet and for a distance of at least 6 feet from the building.

### High Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation and CMP Warning when:

- Children were exposed to asbestos.
- A child is unable to use a toilet or handwashing sink when necessary due to equipment failure or breakdown.
- The only toilet in the facility was broken while children were in care and the toilet was not repaired immediately (within one hour). Refer to 90-9(11).

### Moderate Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation Warning when:

- The presence of asbestos was not immediately corrected, but children were not exposed.
- Lack of maintenance could cause equipment failure.
- There is a buildup of ice in entrances, exits, steps, and walkways used by children.
- There is a missing step or unstable stairs that must be used to enter the facility or access the outdoor area.

### Low Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Warning for other hazards that require maintenance including:

- Exposed fiberglass insulation
- Heat vents that are missing covers
- Cracked or damaged flooring that could cause tripping
- Leaking plumbing (with the exception of a leaking faucet)
- An exposed fluorescent light tube with no covering on the fixture
- Draperies, blinds, or other window coverings that require maintenance including torn draperies or broken blinds that a child could become entangled in
- Wooden equipment that is rough or has splinters
- Cracks in equipment that could pinch a child's skin

- (22) **Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.**

### Rationale / Explanation

Children falling from elevated areas may suffer fatal head injuries. Protective barriers are designed to protect against falls from elevated surfaces. *CFOC 3<sup>rd</sup> ed. Standard 6.1.0.4. pp. 266-267.*

### Compliance Guidelines

- When there is a lip on the edge of the stairwell, the depth is measured from the top of the lip down to the bottom of the stairs.
- Barriers need to be at least 3 feet (36 inches) high measured from the surface where a person could fall from.

### High Risk Rule Violation

#### Corrective Action for 1<sup>st</sup> Instance

Citation and CMP Warning when:

- A deck or balcony that is 5 feet or higher or an open basement stairwell that is 5 feet or deeper has no protective barrier.

### **Moderate Risk Rule Violation**

#### **Corrective Action for 1<sup>st</sup> Instance**

Citation Warning when:

- A required protective barrier has a gap that is 5 by 5 inches or greater in diameter.
- A required protective barrier is less than 36 inches high.

**(23) If the house is subdivided, any part of the house is rented out, or any other area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with rules, except when all of the following conditions are met:**

- (a) there is a signed rental/lease agreement between the provider and the individual responsible for or living in the other part of the house;**
- (b) there is a separate mailing address;**
- (c) there is a separate entrance for the child care program;**
- (d) there are no connecting interior doorways that can be used by unauthorized individuals;**
- (e) there is no shared access to the outdoor area used for child care, or a qualified caregiver is present when children are using a shared outdoor area of the facility.**

### **Rationale / Explanation**

It is essential that any area on the provider's premises must be a safe and healthy environment when accessible to children. This includes apartments, rooms, and areas that are occupied by others, but can be accessed by children in care.

It is also critical to limit who has access to the children in order to ensure the children's safety, and their physical and mental health, and to protect them from any risk of abuse or neglect.

*CFOC 3<sup>rd</sup> ed. Standard 10.3.3.1. p. 41.*

### **Compliance Guidelines**

- Addresses on the mailboxes or on mail that is addressed to each person will confirm that the provider and the renter have separate addresses.
- If the outdoor area can be accessed or shared by residents, no children may be in the outdoor area without the provider or a caregiver who is at least 18 years old.
- When all of the requirements of this rule are met:
  - CCL is not required to inspect the parts of the house that are subdivided and/or rented out, and
  - The occupants in the subdivided or rented part of the facility are not required to have background checks.
- If any of the above requirements are not met, CCL will:
  - Inspect the entire facility including areas that may be subdivided, rented out, or shared.
  - Verify in the CCL App that all covered individuals in the facility have passed a background check.

### **Risk and Corrective Action for 1<sup>st</sup> Instance**

The corrective action will be based on the severity of harm that was caused or likely to be caused as a result of a rule violation.